

SECRETARY OF STATE[721]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary to establish a standard of maximum allowable deviation in population between school director districts and between city wards when boundaries are drawn. Iowa Code sections 275.23A and 372.13 require both school director districts and city wards to be “as nearly equal as practicable to the ideal population.” The ideal population is determined by dividing the number of districts or wards to be established into the population of the school district or city. In addition, the United States Supreme Court has held that, in general, apportionment plans with maximum population deviations under 10 percent are not sufficient, in and of themselves, to make out a prima facie case of discrimination under the Fourteenth Amendment. See *Brown v. Thompson*, 462 U.S. 835, 842.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because the standard being applied in these new rules is consistent with the standard established by the United States Supreme Court for other district apportionment purposes. Both new rules confer benefits on the voting public by ensuring that district and ward population variances are as minimal as possible.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing. The normal effective date should be waived because school districts and cities are currently in the process of preparing to redraw district and ward boundaries at this time. Cities are required to file their reprecincting plans with the Secretary of State’s office no later than September 1, 2011, which is earlier than the normal effective date of these amendments.

These amendments are also published herein under Notice of Intended Action as **ARC 9560B** to allow for public comment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 275.23A and 372.13.

These amendments became effective May 23, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 721—21.31(275):

721—21.31(275) School director district maximum allowable deviation from ideal district population. Each director district shall have a population that exceeds the population of any other director district by no more than 10 percent. Director district plans with variations in excess of 10 percent between two or more districts shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 275.23A.

This rule is intended to implement Iowa Code section 275.23A.

ITEM 2. Adopt the following new rule 721—21.32(372):

721—21.32(372) City ward maximum allowable deviation from ideal ward population. Each city ward shall have a population that exceeds the population of any other city ward by no more than 10 percent. City ward plans with variations in excess of 10 percent between two or more wards shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the

deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 372.13, subsection 7.

This rule is intended to implement Iowa Code section 372.13.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/15/11.